

VCC Notice & Awareness Group

**June 4, 2013 VCC Meeting
Washington, D.C.**

***Initial Group Report: Current
Practices, Consensus and
Discussion Points***

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Tasks

- Identify current notice practices and requirements
 - Types of information privacy notices address
 - How and when privacy notices are provided
 - What information notices provide about data practices (use, disclosure, security, retention, choices, disputes)
 - We do not examine the substance of the data practices that notices describe
- Identify consensus and discussions points

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Due Diligence – Current Practices

- Existing privacy notices provided by utilities and other companies in the industry
- PUC regulations
- General consumer requirements and practices
 - California Online Privacy Protection Act + SB27
 - Federal Trade Commission (FTC) Fair Information Practice Principles
 - U.S. Department of Commerce Safe Harbor
- Regulatory Guidance
 - FTC Report on Protecting Consumer Privacy in an Era of Rapid Change
 - White House: Consumer Data Privacy In a Networked World

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Findings

- Summarized in reference chart
- Current practices and requirements vary significantly
- Utility privacy notices
 - Covered data ranges from website data to CEUD
 - Most notices describe data use, sharing, security measures
 - Some describe a dispute resolution mechanism
 - Some describe a data access and correction mechanism
 - Most describe customer/consumer choices in how the data is used or disclosed

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Findings – Statutes & Regulatory Guidance

- Statutory and regulatory requirements are not harmonized (see chart) – the infamous “patchwork quilt”
- Types of data that notices may be required to cover:
 - Personal information collected on website
 - Data relating to individual, computer or device
 - CEUD
- Consensus that notices should describe data use, sharing and choices;
- No consensus on other elements (security, dispute resolution, retention, access & correction)
- Some consensus that notice must be clear, conspicuous, easily accessible, understandable

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VCC Group: Consensus

- Consumers should be provided with a privacy notice
- Notice should:
 - Describe the information to which it applies and how the information is collected
 - Describe the organization's information practices with respect to CEUD, Website data, other personal information
 - As necessary, some of the practices can be described in policies linked to the privacy notice
 - Describe how the information is used, disclosed, shared, how consumers may access and correct information, if applicable
 - Describe how information is safeguarded and the choices consumers may have in how their data is used and/or disclosed
- There is consensus that a privacy notice should address the above points at least in general terms

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VCC Group: Initial Open Issues

- When privacy notice should be provided (time of collection and/or Website link or other means)
- What the format of the notice should be – to make the notice helpful to consumers
- By what method the notice should be delivered, in addition to website
- Types of data that notice should address
 - Data relating to individuals? Or to devices? Or to households? Or all of the above?
- The granularity with which notice needs to describe the information being collected or that could be collected, especially as it pertains to CEUD
- The extent to which notice should describe current practices vs. potential/future practices/uses/disclosures
 - Whether notice should describe potential data uses (such as that CEUD may be used to glean insight into consumers' activity inside their homes)
- How disclosure of data to law enforcement should be addressed – a generic statement vs. a detailed description
- To what extent notice should address consumers' concerns about government access to smart grid data
- How POUs need to describe whether the information they collect becomes a public record

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Policy Considerations

- Definition of “covered information” in consumer world moving from information associated with individual to data associated with device – consistent with nature of CEUD
- Ongoing criticism of long/detailed privacy notices as too legalistic, not conspicuous and not useful to consumers – and resulting criticism of the notice/choice model
- Recognition that current notice format may be useful to regulators, privacy advocacy groups, media who may stand in the shoes of consumer
- FTC focus on contextually transparent and fair use of data – may obviate the need to describe primary data uses and disclosures that are within reasonable expectations of consumer